

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

KYLE M. PARKS,)	
)	
Plaintiff,)	
)	
vs.)	No. 4:23-CV-1374 PLC
)	
DETECTIVE MATTHEW BLACK, et al.,)	
)	
Defendants.)	

OPINION, MEMORANDUM AND ORDER

This matter is before the Court upon review of plaintiff Kyle Parks' pro se complaint. The complaint is defective because it has not been drafted on the Court's form. *See* E.D. Mo. Local Rule 2.06(A). Additionally, plaintiff must either pay the filing fee or file a motion to proceed in forma pauperis along with a certified account statement. *See* 28 U.S.C. § 1915(a).

Because plaintiff is proceeding pro se, the Court will allow plaintiff to file an amended complaint on the Court's form. Plaintiff has twenty-one (21) days from the date of this Order to file an amended complaint in accordance with the specific instructions set forth here. All claims in the action must be included in one, centralized complaint form. *See* Fed. R. Civ. P. 7(a)(1), 8(a).

Additionally, plaintiff is warned that the filing of an amended complaint replaces the original complaint, so plaintiff must include each one of the claims he wishes to pursue in the amended complaint. *See, e.g., In re Wireless Telephone Federal Cost Recovery Fees Litigation*, 396 F.3d 922, 928 (8th Cir. 2005). Any claims that are not included in the amended complaint will be deemed abandoned and will not be considered. *Id.* The allegations in the complaint must show how each defendant is directly responsible for the alleged harms. If plaintiff wishes to sue

defendants in their individual capacities, plaintiff must specifically say so in the amended complaint. If plaintiff fails to sue defendants in their individual capacities, this action may be subject to dismissal.¹

All of plaintiff's claims should be clearly set forth in the "Statement of Claim." If plaintiff fails to file an amended complaint on the Court's form within twenty-one (21) days and in compliance with the Court's instructions, the Court will dismiss this action without prejudice and without further notice. Additionally, if plaintiff fails to either pay the full filing fee or file a motion to proceed in forma pauperis accompanied by a certified account statement within twenty-one (21) days, his complaint will also be subject to dismissal.

Accordingly,

IT IS HEREBY ORDERED that the Clerk is directed to mail to plaintiff a copy of the Court's prisoner civil rights complaint form.

IT IS FURTHER ORDERED that the Clerk shall mail to plaintiff a copy of the form for filing a motion to proceed in forma pauperis in prisoner actions.

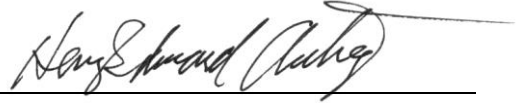
IT IS FURTHER ORDERED that plaintiff must file an amended complaint on the Court's form within twenty-one (21) days of the date of this Order.

IT IS FURTHER ORDERED that plaintiff must either pay the \$400 filing fee **or** submit a motion to proceed in forma pauperis, along with a certified account statement within twenty-one (21) days of the date of this Order.

¹In his complaint, plaintiff attempts to bring civil rights claims against four police officers related to his 2015 arrest and prosecution in this Court. *See United States v. Parks*, No. 4:15CR553 JAR (E.D.Mo.). Plaintiff asserts that he is bringing false arrest and false imprisonment claims against these officers relating to "harm in the investigation phase" of his criminal action. He alleges that these claims cannot be *Heck*-barred, *see Heck v. Humphrey*, 512 U.S. 477 (1994), despite his conviction and sentence in his criminal action. Plaintiff's assertions are incorrect. To the extent plaintiff repleads these same allegations in his amended complaint, the Court will dismiss this action as *Heck*-barred. Such a dismissal will count as a "strike" under 28 U.S.C. § 1915(g).

IT IS FURTHER ORDERED that if plaintiff fails to comply with this Order, the Court will dismiss this action without prejudice. If the case is dismissed for non-compliance with this Order, the dismissal will **not** count as a “strike” under 28 U.S.C. § 1915(g).

Dated this 31st day of October, 2023.

A handwritten signature in black ink, reading "Henry Edward Autrey", is written over a horizontal line.

HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE